

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/886,346

Confirmation No.: 5638

Applicant(s): Smith, Dwight Randall, et al.

Examiner: Ramos Feliciano, Eliseo

Filed: June 21, 2001

Docket No.: PF02258NA

TC/A.U.: 2681

Customer No.: 20280

Title: Method and Apparatus For Providing Instant Messaging in a Wireless Communication System

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

AUG 3 0 2004

Technology Center 2600

DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

The following Declaration is to establish conception in the United States of claimed subject matter in the referenced patent application and diligence to the filing of the referenced patent application on June 21, 2001, from a date prior to the effective date of the following references relied upon by the Examiner to support rejections under 35 U.S.C. 103(a) in the Office Action dated May 19, 2004:

- United States Patent Publication No. 2002/0129103 A1 (Birkler, et al) filed in the United States on October 9, 2001, and having an earliest priority date of March 12, 2001.

- United States Patent Publication No. 2002/0184089 A1 (Tsou, et al) filed in the United States on May 29, 2001.

In support of this declaration, We, Dwight Randall SMITH of Grapevine, Texas; Cristina Menendez RIVERON of Wellington, Florida; and Jeffrey David COUTS of Ft. Worth, Texas, declare and sayeth the following:

That we conceived the claimed subject matter of the referenced patent application in the United States before March 12, 2001, which is prior to the effective dates of United States Patent Publication No. 2002/0129103 A1 (Birkler, et al) and United States Patent Publication No. 2002/0184089 A1 (Tsou, et al) in the course of employment by Motorola Inc., the assignee of the instant application by virtue of an assignment duly recorded on the Official record of the United States Patent & Trademark Office, REEL/FRAME 012410/0694;

That the claimed subject matter of the referenced patent application was the subject of a written invention disclosure prepared after conception, and that before March 12, 2001, the invention disclosure was submitted to a Patent Committee of Motorola Inc., the assignee of record for consideration and assignment to a patent attorney for preparation and filing of a patent application;

That each of the dates redacted from the disclosure attached as Appendix I is prior to March 21, 2001;

That on information and belief a patent application was prepared and filed, in due course upon, in the United States Patent Office on June 21, 2001, by or on behalf of Motorola Inc.;

That all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dwight Randall Smith 04 AUG 04
DWIGHT RANDALL SMITH DATE

STATE OF Texas)
COUNTY OF Tarrant)

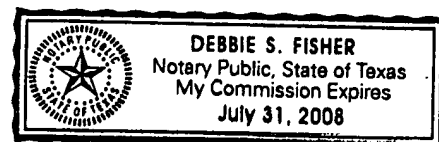
The undersigned Notary Public in and for the County and State aforesaid, do hereby certify that Dwight Randall SMITH whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4TH day of August, 2004.

My commission expires: 7/31/08

Debbie S. Fisher
Notary Public Signature

Debbie S. Fisher
Printed Name of Notary Public



Cristina Menendez Riveron
CRISTINA MENENDEZ RIVERON

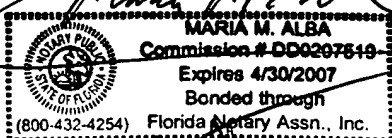
8/18/2004
DATE

STATE OF FLORIDA)
COUNTY OF BROWARD)

The undersigned Notary Public in and for the County and State aforesaid, do hereby certify that Cristina Menendez RIVERON whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this 18th day of August, 2004.

My commission expires: 4-30-07

Maria M. Alba

JEFFREY DAVID COUTS

Maria M. Alba
Notary Public Signature

Maria M. Alba
Printed Name of Notary Public

8-4-2004
DATE

STATE OF Texas)
COUNTY OF Tarrant)

The undersigned Notary Public in and for the County and State aforesaid, do hereby certify that Jeffrey David COUTS whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of August, 2004.

My commission expires: 7/31/08

Debbie S. Fisher
Notary Public Signature

Debbie S. Fisher
Printed Name of Notary Public

